

1873-019 Chancery Causes: Mary A. Ball vs. Carlou Gray &
Lee Co.

Brown, Britton, Morgan, Pridemore

CA-Estate Dispute
T-Property

To the Honorable John A. Riley Judge
of the Circuit Court of Lee County
Mary A. Ball of said County
Your Obedience, would Respectfully
Represent unto your Honor that
Her Husband George W. Ball during
his life in the year 1882 seized
and possessed of a Tract of Land
situated in said County adjoining
the Lands of Mr Ball Frank Colard,
and other upon which your Obedience lines
containing acres, some time prior
to the death of her said Husband he made
and executed his ^{his last and} will ^{and testament} in due and
proper form properly attested. He devised
first that all his debts be paid out of
his property, all the rest and residue
of his real & personal Estate of every
kind whatever. he devised to
your Obedience to her sole use &
benefit during her lifetime or during
her widowhood. after the death
of your Obedience or her second marriage
his real Estate and any residue of
of his personal property that might remain
at the said death of your Obedience he devised
should be Equally divided between
his children except that John Ball
One of his children was to have the
dwelling house in addition to one equal

division of his property. he also appointed
Gives Ostrin Executor of his Estate and that
no bond should be required of her when
she should qualify some time after
the death of Gives Ostrin said Husband
she presented said will to the Court
of Probate for Probate and introduced
Mm Jm Brown & Bartlett Thompson two of
the subscribing witnesses to said will who
promised due execution and the same
was admitted to Probate in solemn form
and Gives Ostrin qualified as Executor
under said will a copy of the ^{order of} Court
admitting said will to Probate ~~is~~ ^{is}
is here filed as part of this Bill marked
17. Gives ^{Ostrin} went on to perform her duties
as executor in settling up the affairs of said
Estate after said will was admitted to
Probate & duly recorded in the Will Book
used by the Clerk of said Court for the recording
of wills which was done in the year 1870
Gives Ostrin made several settlements of
matters concerning said Estate, and had a suit
pending in the Court in the year 18
concerning the sale of a negro when her
Counsel & others Examined said will this
was some time about the day of June 1870
when it was found still remaining in the
Clerks office as it had been recorded
Gives Ostrin was a non resident some
many months surprised when she learned
~~that the same was~~ ~~the same was~~ ~~the same was~~

the record containing said will had
been ^{clearly} torn out of the record book
and carried off and destroyed by some
unknown person or persons, and that the
Original will which had been filed in
the clerk's office after it was recorded had
also been carried off and has not
as yet been found or heard of

James Britton says that the same has
been stolen from said office and
frankly concealed or destroyed so

that it is unable to find said Original
will or the record thereof. Said decedent
at the time of his death left the following

children & heirs to wit: Lucy Ball who

was married to Wm Britton. Britton has since

died. Elizabeth ^{Ball} who married Wm Brown

Matilda ^{Ball} who married Charles Gray

and John Ball. James Britton is in possession

of the real Estate of which her mother died
p has been ever since the death of her said husband & is now in possession as executrix
subject to the will of said husband and being desirous of having
and the estate of the said husband carried out as expressed in said will
said will again set up, and being advised

that her remedy in the premises is in a court
of Equity

Her prayer therefore is that the said Lucy
Britton, Charles Gray, Matilda Gray, John
Ball, William Brown & Elizabeth Brown
be made parties defendants to this Bill
that they be required to answer the same on
Oath, that upon a hearing thereof

James Britton will

~~now~~
 will by all necessary & proper Orders & Decrees
 and Establish
 be set up, and have again admitted to report or read
 same will & returned of Decree
 and the same Honor will be put into your
 Order is any & all such Order further and
 General relief as to Equity belongs and is
 suited to the peculiar circumstances of
 his case
 In witness Whereof the Court of said issue
 do hereby certify

Salmon P. Morrison

1873

Mary H. Bell

Bill in Chancery

Carlo Gray et al.

1873. April. Bill filed. Spu

executed & Decree filed

" May Decree nisi Contd.

& set for hearing by Jeff

" May Term Continued

" Sept Decree final

1873

Mary A. Ball

vs

Charles Gray et al

} In Chy

This cause came on this day to be heard upon the bill, the exhibit filed marked A, the depositions of witnesses and was argued by Counsel. On consideration whereof, and it appearing to the Court that process has been duly served on all the defendants and the decree nisi entered at rules has been properly confirmed, it is therefore adjudged, ordered and decreed that the complainants bill be taken for confessed, and that the will of the decedent and testator George W. Ball, in the bill named, be declared to be to this effect, First: that all the debts of the said testator shall be paid out of his estate.

Second: that the said testator devises and bequeaths ^{subject to the payment of his debts} to his wife, (the plaintiff), all his estate both real & personal for her life, or during her widow^{hood}, her interest to determine either by her death, or by her marriage,

Third: Upon the death, or marriage of the said Mary Ball, which ever event shall first happen, the real estate and any residue of ~~her~~ personal estate of the said testator shall be equally divided between his children, except that John Ball, one of his children, shall have the dwelling house of said testator, in addition to an equal part of testator's said property.

Fourth: the plaintiff, Mary Ball, shall be & is appointed by said testator executrix of ~~the~~ ^{his} ~~testator's~~ will: and it is ordered that a copy of this decree be delivered to

the clerk of the County Court of Lee, to be entered of record in the will book & indexed as the will of said George W. Ball.

And it is further adjudged, ordered & decreed that the plaintiff be quieted in the possession of such property as she holds under said will as hereby set up, and that she may recover and hold any property disposed of by the said will as fully under this decree as if the original will had not been lost or destroyed. But inasmuch as the bill does not charge any one of the defendants with complicity in the destruction of the record of said will, ^{or the abstraction of the original will} and as the evidence does not implicate any one of them in the same, and as the defendants have not controverted the plaintiff's right to this decree, no costs are adjudged against them. And this being a final decree the cause is ordered to be stricken from the docket.

May A. Ball

4/3 Decree final

Col. Sprague at

Augt. 28. 1873

Ente. ^{for A. S.}

Entered order Book page
292 & 293.

James W. Carr, Clerk.

Judge H. J. Morgan's Office, Jonesville Va July 2nd 1873.

Mary A. Ball ----- Plaintiff

vs.

Carlow Gray & others ----- Defendants

} In Chancery.

The deposition of Hon. Henry J. Morgan, Gen^l. A. L. Pride-
more and others, taken pursuant to notice, at the Office of said
Morgan, in the town of Jonesville, Lee County Va, before the under-
signed, a Notary Public in and for said County and State, on
the 2nd day of July 1873, and which is intended to be read
as evidence on behalf of the plaintiff, in the above styled cause,
now pending in the Circuit Court of said County, in the State
aforesaid.

The said Morgan, a witness of lawful age, being first duly
sworn, deposes and says: - My present recollection is, that
in October 1862 the last will & Testament of George W. Ball
dec'd was produced before the County Court of Lee County Va,
proven, and admitted to Probate. I was, at that time, Clerk
of said Court and while the will aforesaid was recorded in
my office, yet I think the manual labor of its recordation
was done by some one then writing in my office for me. I have
but little doubt in my own mind but that, at the time, I
read the will and knew its contents, but I do not remember
the fact distinctly. There is an impression now upon my mind
that by the terms of said will the widow of the said George W.
Ball was to have all of the real & personal estate of the de-
ceased during the term of her natural life, but I am by no
means certain whether that impression was derived from the
reading of the will or from hearing other persons speaking about
its contents, and I have no other impression as to the contents
of said will except the one referred to.

At the June Term of the County Court for said County, ^{for the year 1870} at the request of Genl. Pridemore or Mr Kane, or perhaps both I went with them or him into the Clerk's Office and exhibited the book containing said will as recorded, at which time there was no mutilation thereof. Sometime in the following Sept: or October, according to my present recollection, Mr Harris asked me to shew him the will of Boyd Dickinson ^{or page} dec'd, and in searching for it, I found that the leaf upon which the will of George W. Ball dec'd had been recorded was torn from the Record-Book, as well as a part, if not all of that of Boyd Dickinson dec'd. And, upon further examination, I found that the original will, which is required to be filed in the Clerk's Office, had been extracted or at any rate I have not been able to find it in the place where I usually kept such wills (while Clerk of said Court) to the present time, altho' I have carefully searched for the same several times since, by permission of my successors in office.

Upon further reflection, my recollection is, that by the terms of said will Mary Ball - widow of said George W. was appointed Executrix thereof, and was directed to qualify as such without giving bond, and my recollection is that she did so qualify i.e. without giving bond. And further this witness saith not.

Henry J. Morgan

The said Pridemore, another witness of lawful age, being first duly sworn, deposes & says: - That he remembers distinctly having read the will of George W. Ball dec'd in the Clerk's Office of Lee County Court, and that at that time no part of the same was missing. As to the provisions

of said will, I have no distinct recollection. Mrs Ball - widow of said George W. - stated that a difference of opinion existed, as to the provisions of said will, between her & the heirs of her deceased husband, and in anticipation of a suit arising therefrom, she asked me to examine said will, and give her my opinion thereon, which I did, and while I don't recollect the exact provisions of the will, I am of opinion that the same were favorably to the widow or in accordance with what she claimed and advised her that the will would protect her in her claims & to rest easy and satisfied about the matter. Altho' I have stated that no part of said will was missing, I mean to be understood that the will presented the appearance of a complete Testamentary Paper as recorded, when I examined it. And further this deponent saith not. A. L. Pridemore -

Thomas J. Brown, another witness of lawful age, being first duly sworn, deposes as follows: - I was a witness to the will made by George W. Ball dec'd, but did not read the will at the time I witnessed, although I knew the contents thereof at the time. I was present while the will was being written, and while I do not distinctly remember its provisions, yet my present impression is, that the Testator stated in his will that, after all his just debts were paid, he desired his wife to have all his real and personal property during her natural life or widowhood, and after her death he desired the same to be equally divided among his several heirs, and further this deponent saith not. Thos J. Brown.

Virginia, Lee County, to-wit: - I, John B. West, a Notary Public
in and for said County, in the State aforesaid, do hereby certify
that the foregoing depositions were each taken, sworn to, and
subscribed before me at the time, place, and for the purposes
mentioned in the caption.

Given under my hand this, 22nd, day of July 1873.

John B. West, N.P.

Mary A. B. Ball

as Depositions

Carleton Gray & others.

Reviewed by the Records of John B.
West N.P. while July 25th 1873
G. W. D. D. D.

Notary's Fee \$1.50

Charles Gray. Matilda Gray. John Ball
William Brown. Elizabeth Brown. and
Lucy Britton

You will take notice that on the 22 day
of July 1873 at the Office of the Hon
Henry J. Morgan in the Town of Jonesville in the
County of ~~Lee~~ ^{Lee} State of Virginia I will
proceed to take the depositions of Henry J. Morgan
Wm A. J. Morgan, and others to be read as
evidence in my behalf in a certain suit
now pending in the Circuit Court of Lee
County Virginia in which I am Plaintiff
and you are Defendants, but if from
any cause the taking of said depositions
should not be commenced on said day or if
commenced and not completed I will
adjourn from time to time necessary from
place to place until the same are completed

May 13th 1873 J

Mary J. Ball

Also Summon William Brown & Thomas J.
Brown, to appear at the office of Hon. Henry
J. Morgan, on the 22nd day of July 1873, to
testify &c. in behalf of Plff in a chancery cause
now pending in the Circuit Court of Lee County wherein
Mary A. Ball is Plff & Charles Gray & others, defts.
Given under my hand this, 13th, day of May 1873.

John B. West, N.P.

Mary A. Ball

vs $\frac{3}{4}$ Ball

Carlaw Bay, Cal.

July 1st 1878.

Executed on the within
named persons by deliver-
ing to them a true
copy of the within

Alson Summons thus

Brown and Tho. J. Brown

Tho. J. Brown D.S.

for C. L. Hamblin S.L.C.

S 67 W 27 poles to the fence

S 5-7 E. 26 poles to a stake in the ^{north} edge
of the ^{River} road

Names given by
John R. Gibson

George W. Ball

Mary A. Ball

John Ball

William M. Brown
& Elisabeth his wife

Lincy Ann Brittain

Carlow B. Gray
& Matilda his wife

George W. Ball }
Mary A. Ball }

Mrs. Britton Wm. H. Brittain
and he died & she is still a widow —
John Ball William Brown &
Brown his wife Carlou B. Gray
and Gray his wife.

Mrs. Britton Swapped her interest in the
George W. Ball land to Wm. Brown &
John Ball for their interests in the Mary
A. Ball's Land

J. W. Ball's estate
Parties & Co.

Virginia.

At a Court begun and held for Lee County, at the
Court-house thereof on Monday the 21st day of October 1867.
The last will and testament of George W. Bull deceased was
this day produced in Court and proved by the oaths of
William M. Brown and Bartlett Thompson two of the
witnesses thereto, and ordered to be recorded. And on
the motion of Mary Ann Bull the Executrix therein
named who made oath thereto the Testator having
required of the said Executrix no bond and se-
curity, certificate is granted her for obtaining a
probate of the said will, in due form.

1 copy

Teste Wm. J. Orr J. C.

Mary Ann Ball Exr &c
copy of Order of Court

(21)

The Commonwealth of Virginia :

TO THE SHERIFF OF LEE

COUNTY—GREETING :

We command you to summon

*Carlow Gray, Matilda Gray,
John Ball, William Brown, Elizabeth Brown,
and Lucy Britton.*

to appear at the clerk's office of the ^{*circuit*} county court of Lee, at the court house, on the first
Monday in *April* next, being Rule day, to answer a bill in
chancery exhibited in our said court against *them* by *Mary A. Ball*

and unless *they* shall answer the said bill within one month thereafter, the same will be
taken for confessed, and the said court will decree accordingly. And have then there this
writ. Witness, JAS. W. ORR, clerk of our said court at the court house, the *20th* day
of *March* 187*2*, in the *77th* year of the Commonwealth.

Jas. W. Orr S.C.

Mary A. Bull

vs

John in lchy.

Leahlow Gray et al.

April Rules 1873

Executed by deliver-
ing to the within named
persons an attested office
copy of the within

Thos J. Brown, D.S.
for C. L. Hambley, S.L.C.